

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at KNOXVILLE

JESSE R. FULFER)
Petitioner,)
v.) No. 3:07-cv-90
STATE OF TENNESSEE) Phillips
Respondent.)

JUDGMENT ORDER

In accordance with the accompanying Memorandum Opinion, the motion to dismiss is **GRANTED** and the petition for the writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust available state court remedies. Should the petitioner give timely notice of an appeal from this decision, such notice will be treated as an application for a certificate of appealability, which under the circumstances is hereby **DENIED**. The court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. The court further **DENIES** the petitioner leave to proceed *in forma pauperis* on appeal.

E N T E R:

s/ Thomas W. Phillips
United States District Judge

ENTERED AS A JUDGMENT
s/ Patricia L. McNutt
CLERK OF COURT